IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3788 OF 2005

Vijay Baburao Kamble ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri. A.P.Mundargi with Shri. Girish Kulkarni for the Applicant.
Shri. R.Y. Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 07, 2005.

P.C.:

1. This Application was heard on the last date and today it is kept for dictation of order. The offence registered against the Applicant at N.M.Joshi Marg Police Station, Mumbai is under sections 143, 144, 147, 148, 149, 452, 427, 323, 506, 380, 120-B of the Indian Penal Code. The Application made by the Applicant for Anticipatory Bail before the learned Additional Sessions Judge, Greater Mumbai has been rejected and therefore, this Application is made by the Applicant to this Court.

2. The Applicant who claims to be a political leader is the President of an Association by name All India Credit Card Users Welfare Association. The case of the Applicant is that there were large number of complaints by the customers of the Standard Chartered Bank who were holding credit cards issued by the said

Bank. The complaints were relating to unfair means adopted by the employees of the Bank or Agencies appointed by the Bank. The allegation made by the said Association in the complaint against the Bank is that the Bank is sending anti-social elements to the houses of the customers who have not paid credit card bills and the said persons are behaving roughly with female members present in the house and they are threatening persons present in the house. It is the case of the said Associations that the Bank and its agents adopt strong arm tactics against the customers.

3. The allegation of the prosecution is that on 07th June 2005, in the office of the said Bank at Senapati Bapat Marg, Mumbai, large number of persons came and started shouting slogans. It is alleged that the Applicant was the leader of the mob and the mob entered the premises of the Bank by threatening and assaulting the security guards. The allegation is that said mob caused considerable damage to the property in the office of the said Bank. The allegation is that mob headed by the Applicant herein caused damage to the property which is estimated at Rs.3,00,000/-.

4. The learned Counsel appearing for the Applicant

submitted that the Applicant is the Chairman of the Association which represents credit card holders. There were large number of complaints received from the customers and members of the Association regarding improper methods adopted by the Bank for recovery of amount of credit card bills. As a leader and as President of the said Association, he was desirous of discussing the issues raised by the credit card holders with the management of the said Bank. Submission of the Applicant is that when the Applicant visited the office by fixing prior appointment, the other credit card holders also came there and when the other credit card holders were denied entry in the said Bank premises, the incident has taken place. He submitted that the only object of the visit of the Applicant to the Bank was to have discussion with the management of the Bank.

5. The learned A.P.P. has opposed the Application by pointing out the allegations made in the F.I.R.. He pointed out that entire episode is recorded on a video film and the said video film depicts the manner in which the criminal activities were carried on by the members of the mob. He has invited my attention to the report submitted by the Investigating Officer. He submitted that the damage caused to the property in the Bank is considerable. He submitted that the

manner in which members of the mob led by the Applicant entered the Bank premises make their criminal intentions very clear. He submitted that considering the seriousness of the offence, this is the where custodial interrogation is necessary. He placed reliance on the decision of the learned Single Judge of this Court reported in 1990(1) Bombay Case Reporter 425 (Dilip and another Vs. The State of Maharashtra). He submitted that if there is sufficient material collected by the prosecution against the Applicant-Accused, Anticipatory Bail cannot be granted as the main object of grant of Anticipatory Bail is to protect the person who under a garb of criminal prosecution is harrassed with a view to lower his status in the society. He submitted that the learned Additional Sessions Judge was satisfied after seeing the video recording of the incident that a custodial interrogation was required.

6. I have considered the rival submissions. On the query made to the learned A.P.P. he clarified that the incident has taken place in the office of the Bank and it is not a branch of the said Bank where commercial activities are carried out and service is rendered to the regular customers of the Bank. The learned A.P.P. on instructions did not dispute the fact that seven co-accused were arrested and they have

been enlarged on bail under the orders of the Sessions Court.

7. It is to be noted here that the Applicant claims to be a leader of the Association formed by the Credit Card users. The case of the Applicant is that he visited the office of the Bank at the relevant time only with the object of having a dialogue with the concerned officers of the management. It must be noted here that F.I.R. is filed by a Manager of the said Bank who was stated to be present at the time of the incident. Perusal of the F.I.R. shows that it is not the case made out that the Applicant has personally participated in the criminal activity alleged namely giving threats to the security staff and destruction of the property of the Bank. The allegation of the theft of the cell phone is also not made specifically against the Applicant. All that is stated is that the Applicant had taken initiative and he is the key conspirator.

8. As stated by learned A.P.P., entire episode has been filmed on video camera. Seven accused who have allegedly participated in the crime have been enlarged on bail by the Sessions Court. The Applicant has not denied his presence at the office of the Bank on the day of the incident. Whatever has transpired in the

Bank, even according to the case of the prosecution, is a matter of record in the sense that the entire episode has been recorded on a video film.

9. It cannot be ignored that recently there was an outcry in the holders of the credit card regarding the methods adopted by financial Institution issuing credit cards for recovery of the credit card bills. It appears that the incident is the consequence of the outcry of the customers of the Bank holding credit cards. It is not alleged by the prosecution that the Applicant is likely to abscond or that he is not likely to make himself available. Considering all these factors, it is very difficult to come to the conclusion that the custodial interrogation of the Applicant is required to be made. Presence of the Applicant can be secured by imposing necessary conditions to ensure that he co-operates for proper investigation.

10. At this stage, the learned A.P.P. on instructions of the Investigating Officer states that if the Court is inclined to grant Anticipatory Bail, it may be made subject to condition of the Applicant attending the N.M.Joshi Marg Police Station tomorrow between 4.00 p.m. to 6.00 p.m. and thereafter, as and when called upon to do so. As held by the Apex

Court, the order will enure to the benefit of the Applicant only till the chargesheet is filed and thereafter, he will have to apply to the appropriate court for appropriate relief.

11. Hence, I pass the following order:

: O R D E R :

i) In the event of the arrest of the Applicant in connection with C.R. No.166 of 2005 of N.M.Joshi Marg Police Station, the Applicant shall be enlarged on bail subject to furnishing P.R. Bond in the sum of Rs.75,000/- with one or two local sureties in the like amount. If the Applicant deposits cash in the sum of Rs.75,000/-, time of one month shall be granted to the Applicant to furnish bail bonds in terms of this order.

ii) The Bail is granted subject to condition that the Applicant will attend the N.M.Joshi Marg Police Station on Friday 08th July, 2005 from 4.00 p.m. to 06.00 p.m. for the purposes of investigation. The bail is granted subject to condition that the Applicant will thereafter attend the concerned Police Station as and when called upon to do so and the

Applicant will always co-operate with the Investigating Officer for investigation.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicant only till the chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in the above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE